

===== DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act and the Oil Pollution Act

Notice is hereby given that on September 22, 2006, a proposed consent decree in United States v. Nacelle Land & Management Corporation, et al., Civ. No. 1:04-cv-201 was lodged with the United States District Court for the Northern District of Ohio. In this action, the United States seeks, pursuant to the Oil Pollution Act, recoupment of the costs incurred by the U.S. Environmental Protection Agency ("U.S. EPA") in conducting oil response actions at Nacelle Land & Management Corporation's oil and brine separation facility located at 675 Lakeshore Blvd., Painesville Township, Lake County, Ohio ("Nacelle Facility"). The complaint also seeks civil penalties for alleged violations of the Clean Water Act and its pertinent regulations at the Nacelle Facility. Specifically, in its Complaint, the United States, on behalf of the Oil Spill Liability Trust Fund ("OSLTF"), and its administrator, the U.S. Coast Guard, seeks, pursuant to the Oil Pollution Act (OPA), 33 U.S.C. 2701, et seq., to recover all unreimbursed oil removal costs, including interest under OPA Section 1005, 33 U.S.C. 2705, prejudgment interest, administrative and adjudicative costs, and attorney's fees, totaling at least \$2,274,337.59, incurred by the United States, and/or expended by the OSLTF, in responding to the discharge and/or substantial threat of discharge of oil at and from Nacelle's the Nacelle Facility. The Complaint also seeks, on behalf of U.S. EPA, civil penalties pursuant to CWA Section 311, 33 U.S.C. 1321(b)(7), from Defendants Nacelle and Lake Underground for discharges of oil and brine into navigable waters of the United States at or adjacent to the Nacelle Facility, and for the failure of Nacelle and Lake Underground to prepare and implement an oil spill prevention control and countermeasures program at the Nacelle Facility. Under the proposed Consent Decree, the United States would recover a total of \$300,000 (determined by a Department of Justice financial analyst to be the amount that the corporations can pay) as well as a portion of the proceeds of any sale or lease of certain properties owned by the companies. Of the \$300,000 to be recovered, \$200,000 would be paid to the OSLTF in satisfaction of the United States' claim for reimbursement of removal costs, and \$100,000 would be paid to the OSLTF in full settlement of the United States' claim for civil penalties under CWA Section 311, 33 U.S.C. 1321. A percentage of the proceeds from the sale or lease of properties owned by the corporations also would be paid into the OSLTF. The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044-7611, and should refer to United States v. Nacelle Land & Management Corp., et al. D. J. Ref. 90-5-1-1-~~4365~~>4365/1 [corrected DJ#]. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Ohio, 801 West Superior Avenue Suite 400, Cleveland, OH 44113 (contact Asst. U.S. Attorney Steven Paffilas (216-622-3698)), and at U.S. EPA Region 5, 7th Floor Records Center, 77 West Jackson Blvd., Chicago, Illinois 60604 (contact Assoc. Regional Counsel Deirdre Tanaka (312-886-6730)). During the public comment period, the proposed consent decree may also be examined on the following Department of Justice Web site, <http://www.usdoj.gov/enrd/open.html>. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S.

Department of Justice, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood tonia.fleetwood@usdoj.gov), fax no. (202) 514-0097, phone confirmation number (202) 514-1547. In requesting a copy from the consent Decree Library, please enclose a check in the amount of \$7.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address. William Brighton, Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division. [FR Doc. 06-8483 Filed 10-03-06; 8:45 am] BILLING CODE 4410-15-M